



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/780,089	02/17/2004	Arup Acharya	YOR920040040US1	9901
55450	7590	08/04/2010		
GEORGE A. WILLINGHAN, III				
AUGUST LAW, LLC				
P.O. BOX 19080				
BALTIMORE, MD 21284-9080				
EXAMINER				
COBURN, CORBETT B				
ART UNIT		PAPER NUMBER		
3714				
NOTIFICATION DATE		DELIVERY MODE		
08/04/2010		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

TRIPP@AUGUSTLAW.COM
diane@augustlaw.com

DETAILED ACTION

Response to Amendment

1. Applicant's amendments will not be entered. Changing the wording of the negative limitation to reflect that the participant communicates only with the game server & the audio mixer does not change the fact that the claimed invention was not within the grasp of the Applicant at the time of filing. As noted previously, the specification states that the audio mixer may be integrated into the conference server (0020). Clearly, Applicant did not grasp the importance of this element. Therefore, the claimed invention was not within Applicant's grasp at the time of filing. Furthermore, Applicant cannot have thought that the newly-claimed element was a critical element of his invention. Since it is not a critical element, it cannot serve as the basis of patentability.
2. And even if Applicant had grasped the importance of this element, the routing of communications is a matter of design choice. Any practitioner of the art would know how to route communications in any desired manner with predictable results. Therefore, even if the claim amendments were entered, the claims would not be patentable.

Response to Arguments

3. Applicant's arguments filed 27 July 2010 have been fully considered but they are not persuasive.
4. Applicant's arguments concerning the rejection of the independent claims under 35 U.S.C. §112 are answered above.
5. As for claims 14 & 27, Examiner now has a clearer understanding of the claims & will withdraw the rejections under 35 U.S.C. §101 & 112.

6. Regarding the prior art rejection of the claims, Applicant's arguments are based on the amendments & are therefore moot. However, it should be noted that it does not matter whether servers are separate or combined. Distributed computing is well known. Those of ordinary skill know that functions may be performed on the same computer or on different computers.

7. Applicant should also note that "game" is interpreted as including any computer program -- unless more clearly defined in the claims by claiming the rules of the "game". Therefore, the computer that keeps track of the users' actions & location in Christofferson's virtual world is a "game server".

8. With regard to claims 14 & 27, Christofferson teaches that the location of a user in the virtual world determines what he can hear. Christofferson depicts two groups of users standing around talking. Thus membership in one of those groups determines what the player hears. The fact that Christofferson forms his groups in a different manner than Applicant is immaterial.

9. With regard to claims 16 & 29, Applicant's arguments are not commensurate in scope with the claims. Christofferson discloses participation in conversations based on location. If a player is located between two groups as shown in Fig 8, he may participate in the conversations of both groups.

10. With regard to claims 22 & 35, Applicant argues that Christofferson does not teach a game server. As noted above, it is Examiner's position that Christofferson does have such a server.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Corbett B. Coburn whose telephone number is (571) 272-4447. The examiner can normally be reached on 8-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on (571) 272-4690. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Corbett B. Coburn/
Primary Examiner
Art Unit 3714